

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 2:20-cr-134-SPC-MRM

FABIAN KELLY, JR.
(True Name: Fabian Laterrie Kelly,
Jr.)

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**REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY**

The Defendant, by consent, appeared before me pursuant to Fed. R. Crim. P. 11 and M.D. Fla. R. 1.02, and entered a plea of guilty to a lesser included offense of Count One, and to Counts Six and Seven of the Indictment (Doc. 10), all pursuant to the terms of a plea agreement. The lesser included offense of Count One to which Defendant entered a plea of guilty is stated in the plea agreement as “conspiring to distribute and possess with intent to distribute cocaine base, fentanyl, and cocaine (no threshold amounts alleged or proven), in violation of 21 U.S.C. §§ 846 and 841(b)(1)(C).” (Doc. 165 at 1-2).

During the plea hearing, an issue arose as to the Defendant’s true name. Defendant stated at the hearing that his true name is “Fabian Laterrie Kelly, Jr.” The name set forth in the Indictment (Doc. 10) is “Fabian Kelly, Jr.” After examining the Defendant under oath concerning Defendant’s identity, Defendant acknowledged and agreed that he is the person identified in the Indictment. I, therefore, find that the Defendant who appeared before me is the same person described in and charged in the Indictment.

After cautioning and examining the Defendant under oath concerning each of the subjects mentioned in Rule 11, I determined that the guilty plea was knowledgeable and voluntary as to the lesser included offense of Count One, and as to Counts Six and Seven, and that the guilty plea is supported by an independent basis in fact containing each of the essential elements of the offenses. I, therefore, **RECOMMEND** that the plea of guilty be accepted and that the Defendant be adjudged guilty and have sentence imposed accordingly. The parties have waived the fourteen-day objection period to this Report and Recommendation. (Docs. 166, 167).

Respectfully **RECOMMENDED** in Fort Myers, Florida on July 23, 2021.



Mac R. McCoy
United States Magistrate Judge

Copies furnished to:

Presiding District Judge
Counsel of Record
Unrepresented Parties